

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: DAVID R. CLOUSE, : Case No. 08-21825REF
Debtor : Chapter 13

**ORDER GRANTING THE STAY VIOLATION
MOTION, DECLARING THE POST NUPTIAL
AGREEMENT VOID, AND GRANTING IN PART
AND DENYING IN PART THE STAY RELIEF
MOTION**

AND NOW, this 28 day of December, 2010, upon my consideration of (1) Debtor's Motion To Determine Post-Nuptial [sic] Agreement Void and Entered in Violation of the Automatic Stay, filed on July 22, 2010 (the "Stay Violation Motion"), (2) the Answer of Respondent, Corrine R. Clouse ("Mrs. Clouse"), to Debtor's Motion To Determine Postnuptial Agreement Void and Entered in Violation of the Automatic Stay, filed on August 2, 2010, (3) the Motion To Lift Automatic Stay Pursuant to 11 U.S.C. §362 To Proceed with Divorce and Enforce Post Nuptial [sic] Agreement, filed by Mrs. Clouse on August 3, 2010 (the "Stay Relief Motion"), (4) Debtor's Reply to Motion To

Lift Automatic Stay Pursuant to 11 U.S.C. §362 To Proceed with Divorce and Enforce Post Nuptial [sic] Agreement, filed on August 11, 2010, (5) the briefs filed by the parties pursuant to my direction through both the hearing scheduled on August 31, 2010, and my later Order dated November 18, 2010, requiring additional briefing, (6) oral argument by counsel for both parties on both August 31, 2010, and December 21, 2010, and (7) the findings of fact, conclusions of law, and discussion contained in my Statement Supporting Order Dated December 28, 2010, Granting the Stay Violation Motion, Declaring the Postnuptial Agreement Void, and Granting in Part and Denying in Part the Stay Relief Motion,

IT IS HEREBY ORDERED that the Stay Violation Motion is GRANTED.

IT IS FURTHER ORDERED that the entire postnuptial agreement between Debtor and Mrs. Clouse is hereby declared to be void because (1) a number of its distributive provisions violate the automatic stay of Section 362(a)(3) insofar as they deal with post-confirmation property of the Chapter 13 estate and (2) the violating provisions are not severable from the balance of the postnuptial agreement.

IT IS FURTHER ORDERED that the Stay Relief Motion is GRANTED IN PART and DENIED IN PART and Mrs. Clouse may proceed with

the pending state court divorce proceeding against Debtor on the limited basis described in the Statement.

BY THE COURT

RICHARD E. FEHLING
United States Bankruptcy Judge